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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,917	06/29/2001	Hans-Joachim Fuchs	70231	9518
23872	7590	08/09/2007		
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			EXAMINER SHAHER, RICKY D	
			ART UNIT 2872	PAPER NUMBER
			MAIL DATE 08/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/895,917

Applicant(s)

FUCHS ET AL.

Examiner

Ricky D. Shafer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 2-8 and 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9-12,16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/25/2007 has been entered.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 2, the use of the language "a sleeve" is vague, indefinite and/or confusing. It is unclear to the examiner whether applicant is referring to the sleeve recited in claim 1, line 2 or to some other sleeve.

In claim 11, line 2, the use of the language "a recess" is vague, indefinite and/or confusing. It is unclear to the examiner whether applicant is referring to the recess recited in claim 9, line 5 or to some other recess.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

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subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Martin ('098).

Martin discloses an outside mirror for a motor vehicle comprising a mirror foot (10) for fastening to the vehicle; said mirror foot having a sleeve (34) with a first detent element (52) having a spring force upon deflection from the rest position (see column 1, lines 19-28 and column 1, line 60 to column 2, line 20); a mirror carrier (12, 28) with a recess (opening) having a first detent contour (54), said mirror carrier being fastened to said mirror foot via the deflection of said first detent element to pass said first detent contour to provide a latching/a snap in retaining function of said first detent element to said first detent contour to assume a latched state (see figures 1 and 3), wherein said mirror carrier is capable of being rotatable about a defined axis of rotation when said mirror carrier is in the latched state, said first detent element exerting a preloaded initial tension with said first detent element in engagement with the first detent contour so that the first detent element in the latched state braces the mirror carrier with the initial tension elastically against the mirror foot; and a second detent contour (62) associated with the mirror foot, the position of the mirror carrier relative to the mirror foot being secured at a position with a defined swivel angle by a latching of said second detent contour to the mirror carrier (see figures 2 and 4), said mirror carrier in the latched state is capable of being displaceable counter to pressure of the initial tension in the direction of the axis of rotation such that said mirror carrier disconnects from said second detent contour to allow said mirror carrier to rotate about said axis of rotation (see column 2, line 21-32). Note figures 1-4 along with the associated description thereof.

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6. Claims 1, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Martin ('098).

To the extent the claims are definite, Martin discloses an outside mirror for a motor vehicle comprising a mirror foot (10) fastenable to the vehicle; said mirror foot having a sleeve (24); a mirror carrier (12) fastenable to the mirror foot so as to be capable of swiveling about a swiveling axis; a first detent element (52) associated with one of said mirror foot and said mirror carrier, said first detent element being flexible such that said first detent element deflects when said mirror carrier engages said foot, whereby said first detent element generates a spring force to maintain said mirror carrier with a specific initial tension elastically against said mirror foot (see column 1, lines 19-28 and column 1, line 60 to column 2, line 20); a first detent contour (54) associated with the other of said mirror foot and the mirror carrier, said mirror carrier being connected to said mirror foot via engagement of said first detent element with said first detent contour (see figures 1 and 3); and a second detent contour (62) associated with the mirror foot, the position of the mirror carrier relative to the mirror foot being secured at at least one defined swivel angle when said mirror carrier engages said second detent contour (see figures 2 and 4), said sleeve being located within said mirror carrier when said mirror carrier engages said second detent contour of said mirror foot (see figures 1-3), said mirror carrier is capable of being movable in a direction of said swivel axis, counter to pressure of said spring force such that said mirror carrier disengages said second detent contour via swivelling said mirror carrier about said swiveling axis when a force is applied to said mirror carrier (see column 2, line 21-32), wherein said sleeve comprises a circular symmetrical retaining element (34) connected to said mirror foot, said retaining element extending in a direction of the swiveling axis for fastening the mirror

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carrier to the mirror foot, said retaining element being insertable by a free end into a functionally complementary recess (opening) of the mirror carrier (see figures 1 and 3), and wherein the sleeve in the lateral surface has at least one substantially U-shaped notch formed by vertical slots (44, 46 and 48), thereby forming a detent tongue (38, 40, 42) of said first detent element. Note figures 1-4 along with the associated description thereof.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin ('098).

To the extent the claim is definite, Martin discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the first detent contour is formed by a substantially conical wall in the recess of the mirror carrier.

It is well known to use conical walls in a recess of a mirror carrier in the same field of endeavor for the purpose of holding/securing a shaft/sleeve of a mirror foot.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the first detent contour of Martin to include a conical wall portion, as is commonly known in the art, in order to similarly hold/secure the first detent element of said mirror foot.

In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the first detent contour of Martin to include a conical wall portion,

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since applicant has not disclosed that a conical wall solves any stated problem and it would appear that the invention would perform equally well with the first detent contour has a circular shape. Note In re Kuhle, 188 USPQ 7 (CCPA 1975).

Moreover, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the first detent contour of Martin to include a conical wall portion, since such a modification would have involved a mere change in shape of a component. A change in shape is generally recognized as being within the level of one of ordinary skill in the art. Note In re Dailey et al, 149 USPQ 47.

9. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claims 1 and 9-12 are objected to because of the following informalities:

In claim 1, lines 2, 4, 21 and 22; and claim 9, line 3, the language "swivelling" should be changed to read --swiveling--.

In claim 1, line 18, the language "said swivel axis" should be changed to read --said swiveling axis--.

Appropriate correction is required.

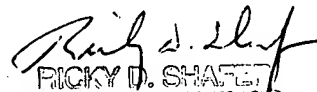
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

August 3, 2007

  
RICKY D. SHAFFER  
PATENT EXAMINER  
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